

(c) When new evidence submitted by either party is received into the record, the opposing party shall be afforded the opportunity to cross-examine the source of the new information or to submit a written response, unless the information is subject to the exceptions in § 710.26 (l) or (o).

§ 710.30 Action by the Secretary.

(a) Whenever an individual has not been afforded an opportunity to cross-examine witnesses who have furnished information adverse to the individual under the provisions of § 710.26 (l) or (o), only the Secretary may issue a final determination denying or revoking the access authorization after personally reviewing the record.

(b) When the Secretary makes a final determination regarding the individual's eligibility for DOE access authorization, the individual will be notified, by the Director, Office of Security Affairs, of that decision and of the Secretary's findings with respect to each allegation contained in the notification letter and each substantial issue identified in the statement in support of the request for review.

(c) Nothing contained in these procedures shall be deemed to limit or affect the responsibility and powers of the Secretary to issue subpoenas or to deny or revoke access to Restricted Data, national security information, or special nuclear material if the security of the nation so requires. The Secretary's authority may not be delegated and may be exercised only when the Secretary determines that the procedures prescribed in § 710.26 (l) or (o) cannot be invoked consistent with the national security, and such determination shall be conclusive.

§ 710.31 Reconsideration of access eligibility.

(a) Where, pursuant to the procedures set forth in §§ 710.20 through 710.30, the Director, Office of Security Affairs, or the Secretary has made a determination granting or reinstating access authorization to an individual, the individual's eligibility for access authorization shall be reconsidered as a new administrative review under the procedures set forth in this subpart when previously unconsidered substantially

derogatory information is identified, or the individual violates a commitment or promise upon which the DOE previously relied to favorably resolve an issue of access eligibility.

(b) Where, pursuant to those procedures, the Manager, Director, Office of Security Affairs, or the Secretary has made a determination denying or revoking access authorization to an individual, the individual's eligibility for access authorization may be reconsidered when there is a bona fide offer of employment requiring access to Restricted Data, national security information or special nuclear material, and there is either:

(1) Material and relevant new evidence which the individual and the individual's representatives are without fault in failing to present earlier, or

(2) Convincing evidence of reformation or rehabilitation.

(c) A request for reconsideration shall be submitted in writing to the Manager having jurisdiction over the position for which access authorization is required. A request for reconsideration shall be accompanied by an affidavit setting forth in detail the new evidence or evidence of reformation or rehabilitation. The Manager shall notify the individual as to whether the individual's eligibility for access authorization will be reconsidered and, if so, the method by which such reconsideration will be accomplished.

(d) Final determinations regarding eligibility for DOE access authorization in reconsideration cases shall be made by the Director, Office of Security Affairs.

MISCELLANEOUS

§ 710.32 Terminations.

In the event the individual is no longer an applicant for access authorization or no longer requires access authorization, the procedures of this subpart shall be terminated without a final determination as to the individual's eligibility for access authorization.

§ 710.33 Attorney representation.

In the event the individual is represented by an attorney or other representatives, the individual shall file